

# **EXHIBIT 31**

**In The Matter Of:**

*In Re: SEPTEMBER 11 LITIGATION,*

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**JAMES MILLER, Jr.**

*May 23, 2008*

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***CONFIDENTIAL***

***TC REPORTING in affiliation with Merrill Corp.***

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**MILLER, Jr., JAMES - Vol. I**

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11:50:21 2 taking pictures in front of the checkpoint, and they  
11:50:28 3 told me it was okay. And when I say "they," because I  
11:50:34 4 don't remember who.

11:50:43 5 Q. Did you report to someone that a person or  
11:50:46 6 persons was taking pictures in front of the checkpoint?

11:50:51 7 A. I believe I did.

11:50:56 8 Q. Did you personally observe a person or  
11:50:59 9 persons taking pictures in front of the checkpoint?

11:51:02 10 A. Yes, ma'am.

11:51:04 11 Q. Was there anybody with you when you made  
11:51:05 12 that observation?

11:51:08 13 A. I don't remember.

11:51:11 14 Q. When did this occur?

11:51:14 15 A. Before September 11th.

11:51:17 16 Q. Can you be more specific as to date?

11:51:19 17 A. No, ma'am.

11:51:24 18 Q. What checkpoint was involved in this  
11:51:26 19 incident?

11:51:28 20 A. American, main checkpoint.

11:51:34 21 Q. And was it one person or more than one  
11:51:37 22 person?

11:51:37 23 A. I don't remember, ma'am.

11:51:41 24 Q. Can you describe any person who was taking  
11:51:44 25 photographs in front of the checkpoint?

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11:51:47 2 A. No, ma'am. It's been a long time, and I  
11:51:51 3 can't remember the faces.

11:51:55 4 Q. Do you remember if it was men or women or  
11:51:57 5 both?

11:51:59 6 A. I don't know, ma'am.

11:52:01 7 Q. Do you remember the nationality or the  
11:52:02 8 appearance of any of the persons who were taking  
11:52:05 9 photos?

11:52:07 10 A. No. I believe that to be Muslim.

11:52:16 11 Q. And what did it appear to you that they  
11:52:18 12 were photographing?

11:52:21 13 MR. CONNORS: Objection to the form of the  
11:52:22 14 question. You can answer.

11:52:26 15 A. The checkpoint, the setup, the machines.

11:52:37 16 Q. Where was the photographer standing?  
11:52:39 17 Outside of the checkpoint?

11:52:41 18 A. Yes, ma'am.

11:52:43 19 Q. And how many photos did you observe them  
11:52:46 20 taking?

11:52:47 21 A. I don't remember, ma'am.

11:52:48 22 Q. How long were they there taking pictures?

11:52:51 23 A. That, I couldn't tell you.

11:52:54 24 Q. Did you speak to the persons who were  
11:52:57 25 taking pictures?

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11:52:58 2 A. I don't remember if I did or not.

11:53:12 3 Q. Was anybody with you when you observed  
11:53:13 4 this?

11:53:14 5 A. Ma'am, not that -- I don't remember.

11:53:29 6 Q. And am I understanding you correctly that  
11:53:31 7 you reported this observation to someone, but you don't  
11:53:36 8 remember who?

11:53:36 9 A. Yes, ma'am.

11:53:49 10 Q. Did you understand, sir, at the time that  
11:53:52 11 you observed Muslim appearing persons photographing the  
11:53:58 12 whole checkpoint setup, that one method that terrorists  
11:54:04 13 use in planning terrorist operations is preoperational  
11:54:10 14 surveillance of the target they intend to attack?

11:54:13 15 MR. CONNORS: Objection to the form of the  
11:54:14 16 question.

11:54:16 17 MS. REILLY: Objection to the form.

11:54:16 18 Q. You can answer.

11:54:19 19 A. No, ma'am. At the time, I did not know.

11:54:26 20 Q. Were you aware that terrorists, unlike  
11:54:30 21 other types of criminals, were more likely to undertake  
11:54:34 22 surveillance work before committing a terrorist  
11:54:38 23 operation?

11:54:39 24 MR. CONNORS: Objection to the form.

11:54:41 25 MS. REILLY: Objection to the form.

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11:54:42 2 A. I did not know, ma'am.

11:54:54 3 Q. Did you understand, sir, that someone  
11:54:59 4 photographing a whole checkpoint operation was a  
11:55:02 5 suspicious activity?

11:55:05 6 MR. CONNORS: Objection to the form.

11:55:06 7 MS. REILLY: Objection to the form.

11:55:08 8 MR. BURTON: Objection.

11:55:09 9 A. Ma'am, it looked weird to me.

11:55:11 10 Q. And that is why you reported it; isn't  
11:55:14 11 that right?

11:55:14 12 A. Yes, ma'am.

11:55:15 13 Q. And what did you say to the person you  
11:55:17 14 reported it to, when they told you that was okay?

11:55:21 15 A. I don't remember, ma'am.

11:55:24 16 Q. Did you take any further action?

11:55:26 17 A. No, ma'am.

11:55:26 18 Q. Did you make a written report?

11:55:28 19 A. No, ma'am.

11:55:45 20 Q. Do you know who Larry Wansley is?

11:55:48 21 A. No, ma'am.

11:55:52 22 Q. Mr. Wansley has, like you, also testified  
11:55:55 23 in this case. He was the managing director of  
11:55:58 24 corporate security for American Airlines. And he told  
11:56:03 25 us that if an American employee saw suspicious activity

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11:56:09 2 from anybody who appeared to be surveilling a  
11:56:12 3 checkpoint, he would expect them to report it. Is that  
11:56:15 4 your understanding, that that kind of activity should  
11:56:18 5 be reported?

11:56:20 6 MR. CONNORS: Objection to the form of the  
11:56:20 7 question.

11:56:22 8 MS. REILLY: Objection to the form.

11:56:22 9 A. Yes, ma'am.

11:56:32 10 Q. Where did you go to make your report of  
11:56:37 11 your observations of a Muslim appearing person or  
11:56:42 12 persons photographing the checkpoint setup?

11:56:44 13 A. Ma'am, I don't remember, you know.

11:56:48 14 Q. Did you make the report to somebody who  
11:56:50 15 was right there in the vicinity?

11:56:58 16 A. I don't know, ma'am. I must have talked  
11:57:01 17 to someone, but I don't remember who I talked to.

11:57:10 18 MS. HESSION: Let me take two minutes. I  
11:57:12 19 just want to pull some exhibits. We'll take a short  
11:57:15 20 break.

11:57:17 21 THE VIDEOGRAPHER: This concludes  
11:57:18 22 Tape No. 1 in the May 23, 2008, deposition of  
11:57:26 23 James Miller. Going off the record, the time is  
11:57:29 24 11:57 a.m.

11:57:32 25 (A recess was taken.)

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12:11:02 2 effort by unknown elements to collect information on  
12:11:06 3 air carrier and airport security measures for  
12:11:10 4 subsequent targeting." Do you see that sentence, sir?

12:11:13 5 A. No, ma'am. Are we talking about on this  
12:11:18 6 (indicating)?

12:11:19 7 Q. Do you see the top of the page where it  
12:11:20 8 says FAA comment?

12:11:22 9 A. Yes.

12:11:23 10 Q. Okay. The second sentence of that  
12:11:25 11 paragraph reads, "They may, however, indicate an effort  
12:11:28 12 by unknown elements to collect information on air  
12:11:32 13 carrier and airport security measures for subsequent  
12:11:35 14 targeting."

12:11:36 15 MR. CONNORS: I think he's reading from  
12:11:39 16 the wrong page.

12:11:40 17 A. Yes. That's what I -- yes, ma'am.

12:11:40 18 Q. All right. Are you with me, sir?

12:11:42 19 A. Yes, ma'am.

12:11:42 20 Q. Was it your understanding at the time that  
12:11:44 21 you saw Muslim appearing people taking photographs of  
12:11:47 22 the whole checkpoint setup, that those persons might  
12:11:50 23 be, might be attempting to collect information on  
12:11:54 24 airport security measures --

12:11:55 25 MR. CONNORS: Objection to the form of the



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12:11:56 2 question.

12:11:56 3 Q. -- for improper purposes?

12:11:58 4 MR. CONNORS: Objection to the form of the  
12:11:59 5 question.

12:12:00 6 MS. REILLY: Objection to form.

12:12:03 7 MR. BURTON: Objection to form.

12:12:05 8 A. It definitely caught me on guard, where I  
12:12:08 9 didn't -- I wasn't comfortable with it.

12:12:11 10 Q. Okay. And you were aware at the time that  
12:12:13 11 you observed the photographing, that persons,  
12:12:19 12 terrorists, may attempt to collect information on  
12:12:24 13 airport security measures for subsequent targeting of  
12:12:28 14 terrorist activities?

12:12:29 15 MR. CONNORS: Objection.

12:12:30 16 Q. That was your understanding, wasn't it?

12:12:32 17 MR. CONNORS: Objection to the form of the  
12:12:32 18 question.

12:12:34 19 MS. REILLY: Objection to form.

12:12:35 20 MR. BURTON: Objection to form.

12:12:35 21 A. Yes, ma'am.

12:12:37 22 Q. And I want to call your attention to the  
12:12:38 23 very last paragraph on that same page. Do you see that  
12:12:43 24 last sentence, it says, "Suspicious activities similar  
12:12:47 25 to those described above may indicate testing of

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12:13:47 2 A. Can I answer now?

12:13:48 3 MR. CONNORS: I don't --

12:13:48 4 BY MS. HESSION:

12:13:49 5 Q. Well, let me ask again because you may  
12:13:51 6 have lost the question. You knew, sir, in the summer  
12:13:53 7 of 2001, didn't you, that when you saw suspicious  
12:13:57 8 activity that to you indicated that somebody may be  
12:14:01 9 attempting to collect information on airport security  
12:14:04 10 for an improper purpose, that you should report it?

12:14:08 11 MR. CONNORS: Objection to the form. You  
12:14:08 12 can answer.

12:14:10 13 MS. REILLY: Objection to form.

12:14:11 14 MR. BURTON: Objection.

12:14:11 15 A. Yes, ma'am.

12:14:12 16 Q. And in fact you did report it; is that  
12:14:13 17 correct?

12:14:14 18 A. Yes, ma'am.

12:14:15 19 Q. Okay. And, again, you've told us you  
12:14:17 20 don't remember to whom you reported the incident you  
12:14:21 21 observed. Do you know whether that was an airport law  
12:14:24 22 enforcement official?

12:14:28 23 A. No, ma'am.

12:14:36 24 Q. I'd like you to turn your attention to  
12:14:38 25 Exhibit 496, which I've left there in front of you,

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12:37:19 2 Q. Has anyone, other than the one person  
12:37:22 3 who -- to whom you reported the incident where you saw  
12:37:27 4 Muslim appearing persons photographing the checkpoint,  
12:37:31 5 did anyone else ever tell you that people had a right  
12:37:38 6 to photograph or videotape the checkpoints?

12:37:41 7 MR. CONNORS: Objection to the form. You  
12:37:42 8 can answer.

12:37:44 9 MS. HESSION: What is the objection to the  
12:37:44 10 form?

12:37:45 11 MR. CONNORS: You keep referring to Muslim  
12:37:47 12 persons. I don't believe that's the case.

12:37:50 13 Q. The persons that you saw photographing the  
12:37:52 14 checkpoint were Muslim appearing; is that correct?

12:37:54 15 A. Yes, ma'am. I believe so.

12:37:56 16 Q. Is it your testimony you don't remember  
12:37:57 17 whether it was one person or more than one person?

12:38:00 18 A. No, I don't.

12:38:01 19 Q. Okay. Has anyone, other than the person  
12:38:04 20 to whom you reported that incident, that you personally  
12:38:07 21 observed, ever told you that it's all right for persons  
12:38:14 22 to videotape or photograph the checkpoints?

12:38:19 23 A. I'm sorry, ma'am. Can you repeat the  
12:38:21 24 question, please?

12:38:22 25 Q. Other than that one person to whom you

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12:38:25 2 reported the photographing incident that you observed,  
12:38:29 3 other than that one person, is there anyone else who  
12:38:33 4 has ever instructed you that persons have a right to  
12:38:39 5 videotape or photograph the security checkpoint setup?

12:38:46 6 MS. REILLY: Objection to the form.

12:38:46 7 MR. CONNORS: Objection to the form of the  
12:38:47 8 question.

12:38:47 9 A. No, ma'am.

12:38:54 10 Q. And did you take any action at all as a  
12:39:00 11 result of the incident you observed, other than to  
12:39:03 12 report it to one person?

12:39:08 13 A. Not to my knowledge. No, ma'am.

12:39:26 14 Q. Have you ever been made aware that any  
12:39:32 15 other employees at the airport, whether employed by  
12:39:36 16 Globe or an airline or anyone else, had observed  
12:39:42 17 persons photographing or videotaping checkpoints?

12:39:47 18 A. Not that I remember, ma'am.

12:39:49 19 Q. Okay. Since you were told that it was  
12:40:07 20 okay for those persons to be photographing -- person or  
12:40:12 21 persons to be photographing the checkpoint, have you  
12:40:15 22 personally observed other persons videotaping or  
12:40:20 23 photographing checkpoints?

12:40:23 24 A. Are we talking about today?

12:40:26 25 Q. Prior to September 11th, 2001.